

*Memorandum*  
K345411

034-79-0002

12/30/85 0017232 K345411 1 25 00

MEMORANDUM OF CONTRACT  
AND RESTRICTIVE COVENANTS

WHEREAS, on December 16, 1985, SDS BIOTECH CORPORATION, a Delaware corporation ("Seller"), and DIAMOND SHAMROCK CORPORATION, a Delaware corporation ("Buyer"), entered into a Real Estate Option Contract (the "Contract") pertaining to certain real property located in Greens Bayou, Harris County, Texas, more specifically described in Exhibit A attached hereto and incorporated herein by this reference for all purposes (the "Property");

NOW, THEREFORE, this Memorandum is being recorded in the records of Harris County, Texas for the following purpose:

To give notice to the public that the Property is subject to the Contract until December 16, 1995 (pursuant to the terms of the Contract), and to place the public on notice of inquiry as to the specific provisions, terms, covenants and conditions of the Contract, including particularly the covenants and restrictions of Seller burdening the Property as described in Exhibit B attached hereto and incorporated hereby by this reference for all purposes (the "Restrictive Covenants"); which shall run with the land and shall be enforceable against Seller and all subsequent owners of the Property, or any part thereof. All capitalized terms therein shall have the same meaning as ascribed to them in this Memorandum.

This Memorandum is being recorded in lieu of recording the Contract to bind the Property and the Seller thereto and to place the public on notice as aforesaid, and nothing herein contained is intended to change, modify or affect any of the terms and provisions of the Contract, or the rights, duties and obligations treated thereby, all of which remain in full force and effect.

Prior to December 16, 1995, the legal effect of this Memorandum may be terminated by the filing in the records of Harris County, Texas of a notice of amendment or withdrawal of this Memorandum signed and acknowledged on behalf of Buyer in form similar hereto; its effect further may be modified or nullified by a duly entered order of any court of competent jurisdiction.

EXECUTED as of the 16<sup>th</sup> day of December, 1985.

SELLER:

ADDRESS:

7528 Auburn Road  
Painesville, Ohio 44077

with a copy to:

William R. Sasso  
Stradley, Ronon, Stevens and Young  
1100 One Franklin Plaza  
Philadelphia, Pa. 19102

SDS BIOTECH CORPORATION, a  
Delaware corporation

By: *William R. Sasso*

Name: WILLIAM R. SASSO

Title: VICE PRESIDENT

9548340



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BUYER:

DIAMOND SHAMROCK CORPORATION a  
Delaware corporation

By: *[Signature]*

Name: *James F. Kelley*

Title: *Vice President*

ADDRESS:

717 North Harwood  
Dallas, Texas 75201  
Attention: General Counsel

With a copy to:

Jones, Day, Reavis & Pogue,  
1700 Huntington Building,  
Cleveland, Ohio 44115

Attention: Darwin DeMarchi, Jr. Esq.

FILED FOR RECORD  
8:30 A.M.

DEC 30 1985

*Quita Roddenberry*  
County Clerk, Harris County, Texas

034-79-0004

Great Britain and Northern Ireland }  
London, England } 88  
Embassy of the United States of America)

\* who acknowledges that  
he is Vice President

BEFORE ME, the undersigned authority, on this 16th day of December, 1985  
personally appeared WILLIAM H. CORUILLETTE \* of SDS BIOTECH  
CORPORATION, a Delaware corporation, known to me to be the person whose  
name is subscribed to the foregoing instrument, and acknowledged to me that he  
executed the same for the purposes and consideration therein expressed and in the  
capacity as therein provided.

My Commission expires:

Elaine Garland

Elaine Garland

Vice Consul of  
the United States of America  
London, England

Great Britain and Northern Ireland }  
London, England } 88  
Embassy of the United States of America)

\* who acknowledges that  
he is Vice President

BEFORE ME, the undersigned authority, on this 16th day of December, 1985  
personally appeared JAMES F. KELLEY \* of DIAMOND  
SHAMROCK CORPORATION, a Delaware corporation, known to me to be the  
person whose name is subscribed to the foregoing instrument, and acknowledged to  
me that he executed the same for the purposes and consideration therein expressed  
and in the capacity as therein provided.

My Commission expires:

Elaine Garland

Elaine Garland

Vice Consul of  
the United States of America  
London, England

RECORDED'S MEMORANDUM:  
The Ribbon and Seal Attached To This In-  
strument Covers a Portion of the Acknowl-  
edgment and Could Not Be Removed To  
Properly Record The Instrument.

034-79-0005

Exhibit A  
Part 1 of 2

DIAMOND SHAMROCK CORPORATION

GREEN'S BAYOU PLAT

121.1328 ACRES NORTHEAST OF

HADEN ROAD

121.1328 acres of land in the Richard and Robert Vince Survey, Abstract No. 76, Harris County, Texas, being out of a 145.903 acre tract of land being the same property described as fifth tract in a deed dated August 2, 1945, to J. F. Hedding, Trustee, and recorded in Volume 1395, Page 533 of the Deed Records of Harris County, Texas, and being described as follows:

BEGINNING at a point in the northeast line of a 60 foot right-of-way for Haden Road at the southeast corner of that certain 2.7087 acre tract conveyed to Jones Chemicals, Inc. by deed dated July 23, 1975 by Diamond Shamrock Corporation, recorded in the Deed Records of Harris County, Texas, under County Clerk's File No. E497928 and Film Code 124-12-0763;

THENCE North 0° 05' East with the east line of said 2.7087 acre tract 544.74 feet to a point for the southwest corner of that certain 1.7217 acre tract conveyed to Jones Chemicals, Inc. by deed dated February 23, 1979, by Diamond Shamrock Corporation, recorded in the Deed Records of Harris County, Texas, under County Clerk's File No. G010887 and Film Code 123-84-0346;

THENCE South 89° 55' East with the south line of said 1.7217 acre tract 150.00 feet to a point for its southeast corner;

THENCE North 0° 05' East with the east line of said 1.7217 acre tract 500.00 feet to a point for its northeast corner in the north line of said 145.903 acre tract and the south right-of-way line of the Houston North Shore Railway;

THENCE South 89° 55' East with the north line of said 145.903 acre tract and the south right-of-way line of the Houston North Shore Railway 2225.97 feet to a point for the northwest corner of that certain 1.009 acre tract conveyed to Harris County Flood Control District by Diamond Alkali Company;

THENCE Southerly with the west line of said 1.009 acre tract as follows:

South 0° 18' West 100.51 feet,  
South 29° 42' East 273.04 feet, and  
South 17° 04' East 122.85 feet to a point  
for the south corner of said 1.009 acre tract in the east line of said 145.903 acre tract;

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Diamond Shamrock Corporation, Greens Bayou Plant  
121.1328 Acres Northeast of Haden Road

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THENCE South  $0^{\circ} 02'$  West with the east line of said 145.903 acre tract 2691.08 feet to a point in the north line of that certain tract of land conveyed by M. L. Nicholson, Administrator of the Estate of R. E. Brooks, deceased, to Harris County Houston Ship Channel Navigation District by deed dated August 6, 1941, and recorded in Volume 1219, Page 626, of the Deed Records of Harris County, Texas;

THENCE North  $76^{\circ} 43'$  West with the north line of said tract 144.95 feet to a point for corner in the southwest line of said 145.903 acre tract;

THENCE North  $50^{\circ} 21'$  West with the southwest line of said 145.903 acre tract 746.82 feet to a point for the southeast corner of 60 foot right-of-way for Haden Road;

THENCE North  $0^{\circ} 02'$  East with east line of said 60 foot right-of-way 77.89 feet to a point for its northeast corner;

THENCE North  $50^{\circ} 21'$  West with the northeast line of said 60 foot right-of-way 2377.63 feet to the PLACE OF BEGINNING, containing 121.1328 acres of land, more or less.

034-79-0007

Exhibit A  
Part 2 of 2

DIAMOND SHAMROCK CORPORATION

GREENS BAYOU PLANT

85.1532 ACRES SOUTHWEST OF

HADEN ROAD

85.1532 acres of land in the Richard and Robert Vince Survey, Abstract No. 76, Harris County, Texas, being out of a 99.811 acre tract of land being the same property described as second tract in a deed dated August 2, 1945, to J. F. Hedding, Trustee, and recorded in Volume 1395, Page 533 of the Deed Records of Harris County, Texas, and being described as follows:

BEGINNING at a point on the left bank of Greens Bayou for the south corner of that certain 3.6559 acre tract conveyed by deed dated October 12, 1978 to Pennwalt Corporation by Diamond Shamrock Corporation, recorded in the Deed Records of Harris County, Texas under Clerk's File No. F828274, Film Code 110-92-1613;

THENCE North 57° 00' East with the southeast line of said 3.6559 acre tract at 93.39 feet passing a 5/8" iron rod, at 412.70 feet passing a 5/8" iron rod set for the east corner of said 3.6559 acre tract and the south corner of Pennwalt Chemical Corporation's 1.6899 acre tract of land described in an instrument recorded in Volume 6347, Page 414, of the Deed Records of Harris County, Texas, and continuing along the same bearing and the southeast line of the said 1.6899 acre tract of land a total distance of 1212.70 feet to a point for corner;

THENCE South 33° 00' East 20.00 feet to a point for corner;

THENCE North 57° 00' East with the southeast line of said 1.6899 acre tract 825.01 feet to a point for corner;

THENCE South 86° 27' East with the south line of said 1.6899 acre tract 203.43 feet to a point for corner in the northeast line of said 99.811 acre tract and the southwest line of Harris County Houston Ship Channel Navigation District Railroad right-of-way;

THENCE South 50° 21' East with the northeast line of said 99.811 acre tract and the southwest line of said railroad right-of-way 1498.17 feet to a concrete monument set for the east corner of said 99.811 acre tract;

THENCE South 57° 00' East with the southeast line of said 99.811 acre tract 2569.80 feet to a concrete monument set for the south corner of said 99.811 acre tract in the left bank of Greens Bayou;

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Diamond Shamrock Corporation, Greens Bayou Plant  
85.1532 Acres Southwest of Haden Road

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THENCE in a Northwesterly direction with the left bank of  
Greens Bayou and its meanders as follows:

North 45° 28' West 273.30 feet,  
North 38° 43' West 283.90 feet,  
North 28° 18' West 290.40 feet,  
North 25° 39' West 273.00 feet,  
North 37° 11' West 400.00 feet, and  
North 51° 33' West 66.23 feet to the PLACE OF  
BEGINNING, containing 85.1532 acres of land.



034-79-0009

Exhibit B

RESTRICTIVE COVENANTS

(1) For purposes hereof, the "Sites" are defined herein as the "alpha beta" and "old landfill" disposal sites and the "old manufacturing area" and "neutralization pits" located adjacent to the Harris County Flood Control Ditch at the east end of the Property and the "storm water pond," the "waste water ponds" and the "sludge drying pits" located at the north end of the Property, all as more fully described and shown on the diagram of the Property attached hereto as Schedule A.

(2) Seller shall maintain substantial compliance with all existing and future permits, orders and regulations issued by any federal, state or local governmental regulatory body, authority or agency which may affect the Property, to the extent that the failure to comply therewith could materially affect the potential liability of Buyer or its affiliates under existing or future federal, state or local environmental laws, rules or regulations or orders of any federal, state or local governmental regulatory body, authority or agency including without limitation the Comprehensive Environmental Response Compensation and Liability Act.

(3) Seller shall operate the waste water treatment systems at the Property and the recovery wells which affect the Sites in substantial compliance with all permits and orders of the type described herein and in accordance with specifications which shall be approved by Buyer from time to time (which approval shall not be unreasonably withheld).

(4) Seller shall not negotiate any permits, orders or other compliance or enforcement agreements with any federal, state or local governmental regulatory body, authority or agency which involve any investigation, response or remedial action with respect to any of the Sites without prior notice to, and participation and concurrence of, Buyer; provided, however, that nothing in this Paragraph 4 shall be construed to prevent Seller from complying with any compliance or clean-up order or directive which may be issued against or to Seller by any federal, state or local regulatory body, authority or agency notwithstanding Buyer's failure to concur in such action, and provided further that the provisions of the third sentence of this Paragraph 4 regarding the participation of Buyer, and the right of Seller to make a final decision shall supersede the provisions of this first sentence of Paragraph 4 until the obligation of Buyer to share costs under Section 5.3 of that certain Stock Purchase Agreement dated as of October 26, 1985, by and among Buyer, Catrev, Inc., Fermenta AB and Vanderbilt Development Corporation has been fully exhausted. Seller shall promptly notify Buyer of any such negotiations, setting forth, in reasonable detail, the nature of the occurrence, the investigation, response or remedial actions to be taken and, if applicable, the reason Buyer may be obligated to participate therein. Buyer shall be entitled to participate fully in the investigation of such occurrence (including, without limitation, full access to documents and information relating thereto), the planning of remedial actions, negotiations with state and federal officials and with contractors, and the supervision of work done; provided that the final decision as to the scope and nature of any such investigation, response and remedial action and the conduct of negotiations with such agencies and the work of any contractors shall be within the sole authority of Seller.

(5) Seller shall secure the prior written consent of Buyer to any testing of the Sites or such recovery wells except testing ordered by any governmental body, authority or agency.



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(6) Seller shall promptly provide to Buyer copies of all orders and other written communications from or with governmental agencies in connection with matters described in Paragraph 2 hereof, at the addresses listed on the signature pages hereof. In addition, Seller shall promptly provide to Buyer copies of all foreclosure notices with respect to any liens on or affecting the Property.

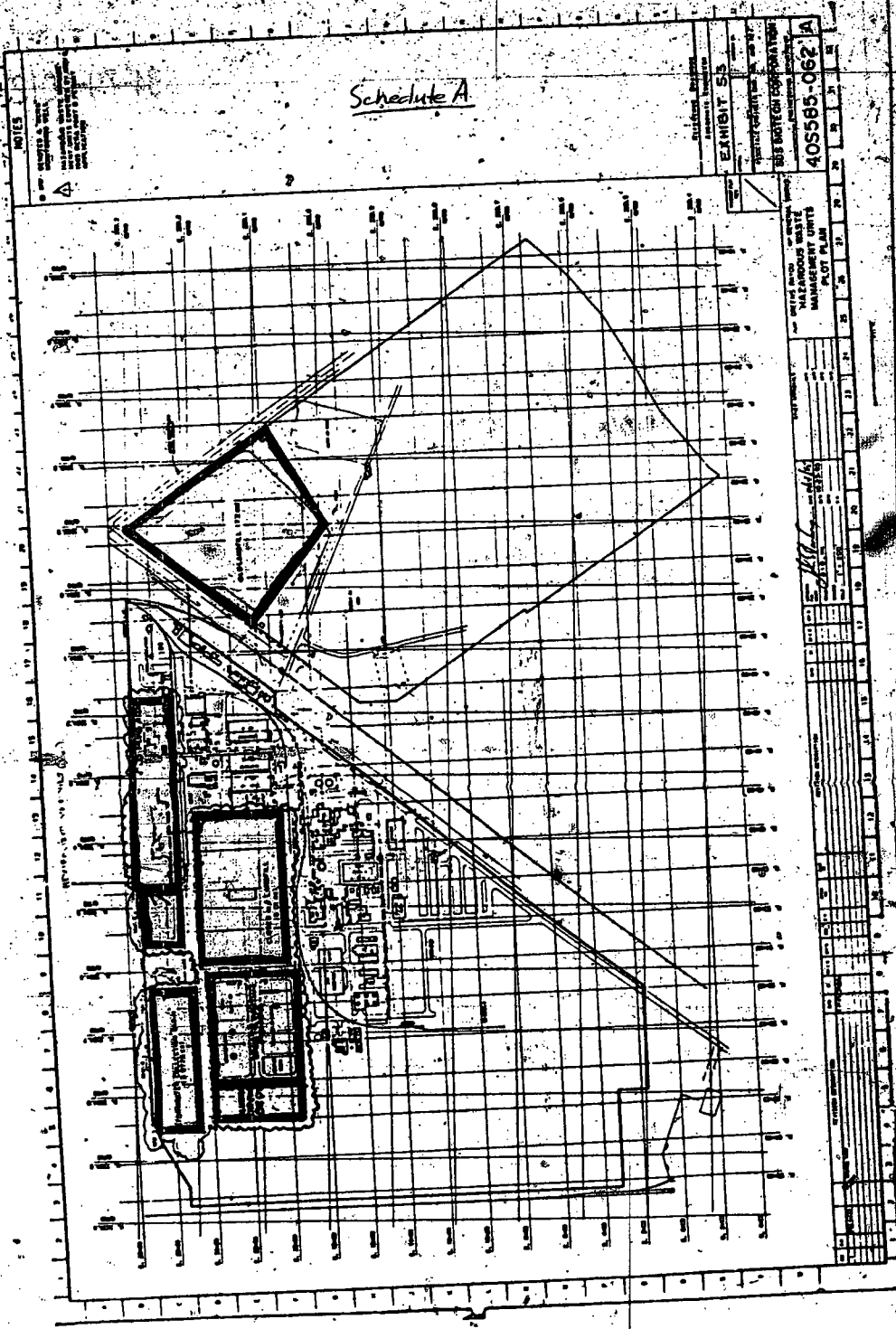
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Schedule A

4  
NOTES

[illegible]

MAZARROUS WASTE  
MANAGEMENT UNIT



034-79-0012

STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in  
File Number Sequence on the date and at the time stamped  
hereon by me, and was duly RECORDED, in the Official  
Public Records of Real Property of Harris County, Texas.

DEC 30 1985



*Quinta Padilla*  
County Clerk, Harris County, Texas

RECORDER'S MEMORANDUM:

At the time of recordation, this instrument was  
found to be inadequate for the best photographic  
reproduction because of illegibility, carbon or  
photo copy, discolored paper, etc. All blockouts,  
additions and changes were present at the time  
the instrument was filed and recorded.

After recording return to:

LINDA SLAVIK  
JONES, DAY, BEAVIS & ROGUE  
2300 LTV CENTER  
Dallas, Tx. 75201